

1
2
3
4
5
6
7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10

11 AMERICAN SMALL BUSINESS
12 LEAGUE,

No. C 10-1680 CRB

ORDER

13 Plaintiff,

14 v.

15 UNITED STATES DEPARTMENT OF
16 ENERGY,

16 Defendant.
17 _____/

18 Defendant United States Department of Energy moved to dismiss on July 14, asking
19 for “an award of zero attorneys fees and zero costs for [Plaintiff] ASBL.” Doc. 14. Plaintiff
20 failed to file a timely response. On August 10, ten days before the scheduled hearing,
21 Plaintiff filed a Statement of Non-Opposition to Motion to Dismiss suggesting that the Court
22 should retain “jurisdiction over the parties for the purpose of Plaintiff’s motion for attorneys
23 fees”

24 Plaintiff’s filing attempts to dispose of the pending motion while preserving its right
25 to seek attorneys fees, and in so doing fails to appreciate the nature of Defendant’s motion.
26 This Court cannot grant the relief requested in the motion while still permitting Plaintiff to
27 file a motion for attorneys fees. In other words, despite Plaintiff’s statement of non-
28 opposition, it is apparent that Plaintiff does in fact oppose the relief requested. It is

1 Plaintiff's obligation to oppose Defendant's motion within the time frame outlined by the
2 relevant rules, and Plaintiff has failed to do so.

3 However, this Court will permit Plaintiff one final chance to articulate its opposition
4 to Defendant's motion. The hearing currently scheduled for August 20, 2010, is hereby
5 continued to September 10, 2010. Plaintiff shall file any opposition no later than August 27,
6 and Defendant shall file a reply, if it wishes, no later than September 3, 2010.

7 **IT IS SO ORDERED.**

8
9
10 Dated: August 18, 2010



11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE